

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2841

AN ACT

AMENDING SECTION 33-1227, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 9, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 33-1262 AND 33-1263; AMENDING TITLE 33, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 33-1817 AND 33-1818; RELATING TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1227, Arizona Revised Statutes, is amended to
3 read:

4 33-1227. Amendment of declaration

5 ~~A. Except in cases of amendments that may be executed by a declarant~~
6 ~~under section 33-1220, by the association under section 33-1206 or section~~
7 ~~33-1216, subsection D, or by certain unit owners under section 33-1218,~~
8 ~~subsection B, section 33-1222, section 33-1223 or section 33-1228, subsection~~
9 ~~B, and except to the extent permitted or required by other provisions of this~~
10 ~~chapter, the declaration, including the plat, may be amended only by a vote~~
11 ~~of the unit owners to which at least sixty-seven per cent of the votes in the~~
12 ~~association are allocated, or any larger majority the declaration specifies.~~
13 ~~The declaration may specify a smaller percentage only if all of the units are~~
14 ~~restricted exclusively to nonresidential use. The declaration may also~~
15 ~~provide that the consent of the declarant is required to an amendment during~~
16 ~~any period of declarant control pursuant to section 33-1243. Within thirty~~
17 ~~days after the adoption of any amendment pursuant to this subsection, the~~
18 ~~association shall prepare, execute and record a written instrument setting~~
19 ~~forth the amendment.~~

20 ~~B.~~ A. An action to challenge the validity of an amendment adopted by
21 the association pursuant to this section OR SECTION 33-1263 shall not be
22 brought more than one year after the amendment is recorded.

23 ~~C.~~ B. An amendment to the declaration shall be recorded in each
24 county in which any portion of the condominium is located and is effective
25 only on recordation in the same manner as required for the declaration under
26 section 33-1211.

27 ~~D.~~ C. Except to the extent expressly permitted or required by other
28 provisions of this chapter, an amendment shall not create or increase special
29 declarant rights, increase the number of units or change the boundaries of
30 any unit, the allocated interests of a unit or the uses to which any unit is
31 restricted, in the absence of unanimous consent of the unit owners.

32 ~~E.~~ D. An amendment shall not terminate or decrease any unexpired
33 development right, special declarant right or period of declarant control
34 unless the declarant approves.

35 ~~F.~~ E. Amendments to the declaration required by this chapter to be
36 executed by the association shall be executed on behalf of the association by
37 any officer of the association designated for that purpose or, in the absence
38 of designation, by the president of the association.

39 Sec. 2. Title 33, chapter 9, article 3, Arizona Revised Statutes, is
40 amended by adding sections 33-1262 and 33-1263, to read:

41 33-1262. Initiative petitions; submittal; tally; effect

42 AFTER THE PERIOD OF DECLARANT CONTROL AND NOTWITHSTANDING ANY PROVISION
43 IN THE CONDOMINIUM DOCUMENTS OR ANY PROVISION OF TITLE 10:

44 1. A UNIT OWNER MAY CIRCULATE AND SUBMIT AN INITIATIVE PETITION THAT
45 PROPOSES A NEW OR MODIFIED PROVISION OF THE CONDOMINIUM DOCUMENTS. THE

1 PROPOSED MEASURE SHALL CONTAIN ONLY ONE PROPOSAL SO THAT THOSE PERSONS VOTING
2 ON THE MEASURE MAY VOTE FOR OR AGAINST EACH MEASURE SEPARATELY.

3 2. A PETITION FOR A CONDOMINIUM ASSOCIATION INITIATIVE SHALL BE IN
4 SUBSTANTIALLY THE FOLLOWING FORM:

5 CONDOMINIUM ASSOCIATION INITIATIVE DESCRIPTION

6 (INSERT A DESCRIPTION OF NO MORE THAN ONE HUNDRED WORDS OF
7 THE PRINCIPAL PROVISIONS OF THE PROPOSED MEASURE AND ATTACH A
8 COPY OF THE PROPOSED PROVISION OF THE CONDOMINIUM DOCUMENTS.)

9 BEFORE SIGNING, MAKE SURE THE TEXT OF THE MEASURE IS
10 ATTACHED. YOU HAVE THE RIGHT TO READ OR EXAMINE THE TEXT BEFORE
11 SIGNING.

12 CONDOMINIUM ASSOCIATION INITIATIVE MEASURE

13 WE, THE UNDERSIGNED MEMBERS OF THE ____ (NAME OF
14 ASSOCIATION) ____, RESPECTFULLY DEMAND THAT THE FOLLOWING
15 PROPOSED PROVISION OF THE CONDOMINIUM DOCUMENTS GOVERNING THE
16 ASSOCIATION AND ITS MEMBERS BE SUBMITTED TO THE MEMBERSHIP FOR
17 APPROVAL OR REJECTION AT A MEETING HELD FOR THAT PURPOSE.

18 I HAVE PERSONALLY SIGNED THIS PETITION WITH MY FIRST AND
19 LAST NAMES. I AM AN OWNER AND MEMBER OF THE ASSOCIATION
20 DESCRIBED ABOVE.

21 SIGNATURE	22 PRINTED	23 ADDRESS OR	24 DATE
	(FIRST AND	UNIT NUMBER	SIGNED
	LAST NAME)		

25 3. BEFORE CIRCULATING AN INITIATIVE PETITION FOR SIGNATURES, A
26 PROPONENT OF THE MEASURE SHALL SUBMIT A COPY OF THE MEASURE TO THE BOARD OF
27 DIRECTORS OF THE ASSOCIATION. THE BOARD SHALL RESPOND TO THE PROPONENT IN
28 WRITING WITHIN FIFTEEN BUSINESS DAYS AFTER RECEIPT OF THE MEASURE AS TO
29 WHETHER THE BOARD WILL SUBMIT THE MEASURE OF ITS OWN ACCORD TO THE UNIT
30 OWNERS. IF THE BOARD CHOOSES TO SUBMIT THE MEASURE TO THE UNIT OWNERS
31 WITHOUT REQUIRING COMPLIANCE WITH THE PETITION PROCESS IN THIS SECTION, THE
32 MEASURE SHALL BE SUBMITTED WITHIN THE TIME PERIODS PRESCRIBED IN THIS SECTION
33 AND VOTED ON PURSUANT TO SECTION 33-1263. IF THE BOARD DECLINES TO SUBMIT
34 THE MEASURE TO THE UNIT OWNERS WITHOUT REQUIRING COMPLIANCE WITH THE PETITION
35 SUBMITTAL REQUIREMENTS BECAUSE THE MEASURE VIOLATES THE LAW OR CONFLICTS WITH
36 A CONDOMINIUM DOCUMENT WITH HIGHER LEGAL AUTHORITY THAN THE PROPOSED MEASURE,
37 THE BOARD SHALL STATE THAT REASON IN ITS RESPONSE TO THE PROPONENT.

38 4. UNLESS THE CONDOMINIUM DOCUMENTS PROVIDE FOR A SMALLER PERCENTAGE
39 OR SMALLER NUMBER THAT IS NO LOWER THAN A MAJORITY OF THOSE ELIGIBLE TO SIGN,
40 THE INITIATIVE PETITION SHALL BE SIGNED BY AT LEAST TWENTY PER CENT OF THE
41 UNIT OWNERS OF THE ASSOCIATION BUT NO FEWER THAN FIVE UNIT OWNERS. FOR
42 PROPERTY WITH MULTIPLE OWNERSHIP, ONLY ONE PERSON MAY SIGN FOR THAT PROPERTY
43 AND THE SIGNATURE OF AN ADDITIONAL CO-OWNER IS NOT VALID. NEITHER THE BOARD
44 OF DIRECTORS NOR THE UNIT OWNERS MAY ADOPT AN INITIATIVE SIGNATURE
REQUIREMENT THAT IS GREATER THAN THAT PRESCRIBED BY THIS PARAGRAPH.

1 5. PETITIONERS SHALL CIRCULATE THE PETITION FOR SIGNATURES AND ON
2 COMPLETION OF SIGNATURE GATHERING SHALL SUBMIT THEIR PETITIONS TO THE
3 SECRETARY OF THE BOARD OF DIRECTORS. A PETITION IS NOT VALID UNLESS
4 SUBMITTED WITHIN ONE HUNDRED TWENTY DAYS AFTER THE DATE OF THE WRITTEN
5 NOTIFICATION FROM THE BOARD TO THE PROPONENT. ON RECEIPT OF A PETITION THAT
6 APPEARS TO INCLUDE THE REQUISITE NUMBER OF SIGNATURES, THE BOARD SHALL
7 SCHEDULE A SPECIAL MEETING OF THE BOARD WITHIN THIRTY DAYS AFTER RECEIPT OF
8 THE SIGNED PETITIONS, OR IF A REGULAR MEETING OF THE BOARD WILL BE HELD
9 WITHIN THIRTY DAYS AFTER RECEIPT OF THE SIGNED PETITIONS, THE BOARD MAY
10 CONSIDER THE PETITION AT THE NEXT REGULAR MEETING OF THE BOARD.

11 6. AT AN OPEN SESSION OF THE REGULAR OR SPECIAL MEETING OF THE BOARD,
12 THE BOARD SHALL EXAMINE THE PETITION SIGNATURES AND SHALL VALIDATE THOSE
13 SIGNATURES THAT APPEAR TO BE VALID, UNLESS THERE IS SUBSTANTIAL EVIDENCE THAT
14 A SIGNATURE IS NOT THE SIGNATURE OF THE PERSON PURPORTING TO SIGN THE
15 PETITION OR IF THE PERSON IS NOT A MEMBER OF THE ASSOCIATION AS DETERMINED BY
16 OWNERSHIP RECORDS ON THE DATE OF THE MEETING.

17 7. AT THE CONCLUSION OF THE TALLY, THE BOARD SHALL ANNOUNCE THE
18 RESULTS AND IF A SUFFICIENT NUMBER OF SIGNATURES IS VALIDATED, THE PROPOSED
19 MEASURE SHALL BE SUBMITTED FOR A VOTE OF THE UNIT OWNERS AT THE NEXT ANNUAL
20 MEETING OF THE UNIT OWNERS OF THE ASSOCIATION IF THE ANNUAL MEETING MAY BE
21 SCHEDULED AND HELD LAWFULLY NO EARLIER THAN SEVENTY-FIVE DAYS AFTER THE DATE
22 THE SIGNATURES ARE VALIDATED AND NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER
23 THE DATE THE SIGNATURES ARE VALIDATED. IF THE ANNUAL MEETING CANNOT BE
24 SCHEDULED AND HELD LAWFULLY WITHIN THAT TIME LIMIT, THE BOARD SHALL SCHEDULE
25 AND HOLD A SPECIAL MEETING OF THE UNIT OWNERS WITHIN THAT TIME LIMIT TO VOTE
26 ON THE MEASURE UNLESS OTHERWISE AGREED TO BY THE PROPONENT AND THE BOARD.
27 THIS SECTION DOES NOT REQUIRE THE BOARD TO SUBMIT A PETITION TO THE UNIT
28 OWNERS THAT IS IN VIOLATION OF THE LAW OR THAT IS IN CONFLICT WITH A
29 CONDOMINIUM DOCUMENT WITH HIGHER AUTHORITY.

30 8. AT THE UNIT OWNERS MEETING TO VOTE ON THE INITIATIVE MEASURE, THE
31 BOARD SHALL ENSURE THAT THE MEETING REMAINS OPEN TO THE UNIT OWNERS UNTIL ALL
32 VOTES ARE CAST AND TALLIED AND THE RESULTS ARE ANNOUNCED.

33 33-1263. Amendments to condominium documents; quorum; limitations

34 A. AFTER THE PERIOD OF DECLARANT CONTROL AND NOTWITHSTANDING ANY
35 PROVISION IN THE CONDOMINIUM DOCUMENTS, THE UNIT OWNERS MAY AMEND THE
36 CONDOMINIUM DOCUMENTS BY A VOTE OF AT LEAST TWO-THIRDS OF THOSE VOTING ON THE
37 MEASURE, EXCEPT THAT IF THE CONDOMINIUM DOCUMENTS PROVIDE FOR A SMALLER
38 PERCENTAGE THAT IS AT LEAST FIFTY PER CENT OF THOSE VOTING, THE SMALLER
39 PERCENTAGE APPLIES. FOR ANY CONDOMINIUM WITH A DECLARATION AMENDMENT
40 REQUIREMENT OF MORE THAN A TWO-THIRDS VOTE, THE CONDOMINIUM BY A VOTE OF THE
41 UNIT OWNERS OR OTHERWISE MAY NOT SUBSEQUENTLY ADOPT A DECLARATION AMENDMENT
42 VOTE REQUIREMENT THAT IS LESS THAN THAT PRESCRIBED BY THIS SUBSECTION.

43 B. FOR ANY MEETING OF THE ASSOCIATION AT WHICH THE UNIT OWNERS ARE
44 VOTING ON A PROPOSED AMENDMENT TO THE CONDOMINIUM DOCUMENTS, THE FOLLOWING
45 APPLY:

1 1. THE ASSOCIATION SHALL DELIVER TO THE UNIT OWNERS, AT LEAST THIRTY
2 BUT NOT MORE THAN SIXTY DAYS BEFORE THE MEETING, WRITTEN NOTICE OF ANY
3 MEETING CALLED FOR THE PURPOSE OF AMENDING THE CONDOMINIUM DOCUMENTS AND THE
4 TEXT OF ANY PROPOSED AMENDMENT.

5 2. ANY AMENDMENT TO THE DECLARATION THAT IS ADOPTED BY THE ASSOCIATION
6 IS EFFECTIVE ON RECORDING.

7 3. DOCUMENTS RELATING TO ANY ADOPTED AMENDMENT SHALL BE KEPT WITH THE
8 OTHER BOOKS AND RECORDS OF THE ASSOCIATION FOR AT LEAST ONE YEAR AFTER
9 RECORDING OF THE AMENDMENT.

10 4. A QUORUM IS PRESENT FOR PURPOSES OF VOTING ON AMENDMENTS TO THE
11 CONDOMINIUM DOCUMENTS IF UNIT OWNERS HOLDING AT LEAST THIRTY PER CENT OF THE
12 VOTES IN THE ASSOCIATION ARE PRESENT IN PERSON OR AS OTHERWISE PERMITTED BY
13 LAW.

14 C. IF AT LEAST TWO-THIRDS OF THOSE PERSONS VOTING ON THE AMENDMENT
15 APPROVE THE AMENDMENT, THE PROPOSED PROVISION OF THE CONDOMINIUM DOCUMENTS IS
16 APPROVED AND SHALL THEREAFTER BE APPLICABLE AS IF ADOPTED BY THE BOARD OF
17 DIRECTORS.

18 D. THIS SECTION DOES NOT APPLY TO THE MODIFICATION OF THE CONDOMINIUM
19 DOCUMENTS THAT DO ANY OF THE FOLLOWING:

20 1. REQUIRE THE EXCLUSIVE USE OF ONE OR MORE BUILDERS, DEVELOPERS OR
21 CONTRACTORS FOR THE CONDOMINIUM AS IDENTIFIED IN THE CONDOMINIUM DOCUMENTS.

22 2. REGULATE THE TRANSITION FROM DECLARANT CONTROL OF THE CONDOMINIUM
23 TO NONDECLARANT OWNER CONTROL, INCLUDING ANY TRANSITION RELATED DOCUMENTS OR
24 REQUIREMENTS.

25 3. CHANGE THE USE OF AND ACCESS TO THE COMMON ELEMENTS OF THE
26 CONDOMINIUM OR OTHER AREAS OVER WHICH THE ASSOCIATION CONTROLS USE OR ACCESS
27 FOR THE GUESTS AND INVITEES OF THE DECLARANT, ITS AFFILIATES, SUCCESSORS OR
28 ASSIGNS OR OF THE UNIT OWNERS AS PROVIDED IN THE CONDOMINIUM DOCUMENTS,
29 INCLUDING USE AND ACCESS FOR BUSINESS OR MARKETING PURPOSES, USE OF AND
30 ACCESS TO EASEMENTS AND COMMON ELEMENTS BY THE DECLARANT, ITS AFFILIATES,
31 SUCCESSORS AND ASSIGNS AND USE OF AND ACCESS TO ANY AREAS OVER WHICH THE
32 ASSOCIATION CONTROLS USE OR ACCESS.

33 4. CHANGE THE USE OF AND ACCESS TO EASEMENTS OR ANY MAINTENANCE
34 OBLIGATIONS OF THE ASSOCIATION FOR THOSE EASEMENTS.

35 5. CHANGE THE USE, OPERATION, MAINTENANCE OR DISPOSITION OF COMMON
36 ELEMENTS IN THE CONDOMINIUM.

37 6. CHANGE THE AMOUNT OR LEVEL OF ASSESSMENTS ON UNITS OWNED BY THE
38 DECLARANT.

39 7. PRESCRIBE A MINIMUM AGE FOR OWNERSHIP OR OCCUPANCY OF THE
40 CONDOMINIUM IN COMPLIANCE WITH FEDERAL AND STATE LAW.

41 8. CHANGE ANY PROCEDURES OR PRACTICES THAT ARE REASONABLY REQUIRED FOR
42 COMPLIANCE WITH FEDERAL, STATE OR LOCAL LAWS OR REGULATORY REQUIREMENTS.

43 9. REQUIRE MEMBERSHIP IN A MASTER ASSOCIATION IN ADDITION TO REQUIRING
44 MEMBERSHIP IN THE CONDOMINIUM ASSOCIATION.

45 10. APPLY NONUNIFORMLY TO SIMILAR UNITS.

11. CHANGE THE BASIS FOR ALLOCATING VOTING RIGHTS OR ASSESSMENTS AMONG UNIT OWNERS.

12. AMEND THE PLAT OR AMEND THE REQUIREMENTS OF THE PLAT.

13. AMEND THE DECLARATION BY EXECUTION OF DOCUMENTS BY ANY OF THE FOLLOWING:

(a) THE DECLARANT UNDER SECTION 33-1216.

(b) THE ASSOCIATION UNDER SECTION 33-1206 OR SECTION 33-1216, SUBSECTION D.

(c) CERTAIN UNIT OWNERS UNDER SECTION 33-1218, SUBSECTION B, SECTION 33-1222, SECTION 33-1223 OR SECTION 33-1228, SUBSECTION B.

E. THIS SECTION DOES NOT PREVENT OR LIMIT THE BOARD OF DIRECTORS OR ASSOCIATION FROM AMENDING THE CONDOMINIUM DOCUMENTS AS PRESCRIBED IN THE CONDOMINIUM DOCUMENTS.

Sec. 3. Title 33, chapter 16, article 1, Arizona Revised Statutes, is amended by adding sections 33-1817 and 33-1818, to read:

33-1817. Initiative petitions; submittal; tally; effect

AFTER THE PERIOD OF DECLARANT CONTROL AND NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS OR ANY PROVISION OF TITLE 10:

1. A MEMBER MAY CIRCULATE AND SUBMIT AN INITIATIVE PETITION THAT PROPOSES A NEW OR MODIFIED PROVISION OF THE COMMUNITY DOCUMENTS. THE PROPOSED MEASURE SHALL CONTAIN ONLY ONE PROPOSAL SO THAT THOSE PERSONS VOTING ON THE MEASURE MAY VOTE FOR OR AGAINST EACH MEASURE SEPARATELY.

2. A PETITION FOR A PLANNED COMMUNITY ASSOCIATION INITIATIVE SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

PLANNED COMMUNITY ASSOCIATION INITIATIVE DESCRIPTION

(INSERT A DESCRIPTION OF NO MORE THAN ONE HUNDRED WORDS OF THE PRINCIPAL PROVISIONS OF THE PROPOSED MEASURE AND ATTACH A COPY OF THE PROPOSED PROVISION OF THE COMMUNITY DOCUMENTS.)

BEFORE SIGNING, MAKE SURE THE TEXT OF THE MEASURE IS ATTACHED. YOU HAVE THE RIGHT TO READ OR EXAMINE THE TEXT BEFORE SIGNING.

PLANNED COMMUNITY ASSOCIATION INITIATIVE MEASURE

WE, THE UNDERSIGNED MEMBERS OF THE (NAME OF ASSOCIATION), RESPECTFULLY DEMAND THAT THE FOLLOWING PROPOSED PROVISION OF THE COMMUNITY DOCUMENTS GOVERNING THE ASSOCIATION AND ITS MEMBERS BE SUBMITTED TO THE MEMBERSHIP FOR APPROVAL OR REJECTION AT A MEETING HELD FOR THAT PURPOSE.

I HAVE PERSONALLY SIGNED THIS PETITION WITH MY FIRST AND LAST NAMES. I AM AN OWNER AND MEMBER OF THE ASSOCIATION DESCRIBED ABOVE.

SIGNATURE	PRINTED	ADDRESS OR	DATE
	(FIRST AND	UNIT NUMBER	SIGNED
	LAST NAME)		

3. BEFORE CIRCULATING AN INITIATIVE PETITION FOR SIGNATURES, A PROPONENT OF THE MEASURE SHALL SUBMIT A COPY OF THE MEASURE TO THE BOARD OF

1 DIRECTORS OF THE ASSOCIATION. THE BOARD SHALL RESPOND TO THE PROPONENT IN
2 WRITING WITHIN FIFTEEN BUSINESS DAYS AFTER RECEIPT OF THE MEASURE AS TO
3 WHETHER THE BOARD WILL SUBMIT THE MEASURE OF ITS OWN ACCORD TO THE MEMBERS.
4 IF THE BOARD CHOOSES TO SUBMIT THE MEASURE TO THE MEMBERS WITHOUT REQUIRING
5 COMPLIANCE WITH THE PETITION PROCESS IN THIS SECTION, THE MEASURE SHALL BE
6 SUBMITTED WITHIN THE TIME PERIODS PRESCRIBED IN THIS SECTION AND VOTED ON
7 PURSUANT TO SECTION 33-1818. IF THE BOARD DECLINES TO SUBMIT THE MEASURE TO
8 THE MEMBERS WITHOUT REQUIRING COMPLIANCE WITH THE PETITION SUBMITTAL
9 REQUIREMENTS BECAUSE THE MEASURE VIOLATES THE LAW OR CONFLICTS WITH A
10 COMMUNITY DOCUMENT WITH HIGHER LEGAL AUTHORITY THAN THE PROPOSED MEASURE, THE
11 BOARD SHALL STATE THAT REASON IN ITS RESPONSE TO THE PROPONENT.

12 4. UNLESS THE COMMUNITY DOCUMENTS PROVIDE FOR A SMALLER PERCENTAGE OR
13 SMALLER NUMBER THAT IS NO LOWER THAN A MAJORITY OF THOSE ELIGIBLE TO SIGN,
14 THE INITIATIVE PETITION SHALL BE SIGNED BY AT LEAST TWENTY PER CENT OF THE
15 MEMBERS OF THE ASSOCIATION BUT NO FEWER THAN FIVE MEMBERS. FOR PROPERTY WITH
16 MULTIPLE OWNERSHIP, ONLY ONE PERSON MAY SIGN FOR THAT PROPERTY AND THE
17 SIGNATURE OF AN ADDITIONAL CO-OWNER IS NOT VALID. NEITHER THE BOARD OF
18 DIRECTORS NOR THE MEMBERS OF THE PLANNED COMMUNITY MAY ADOPT AN INITIATIVE
19 SIGNATURE REQUIREMENT THAT IS GREATER THAN THAT PRESCRIBED BY THIS PARAGRAPH.

20 5. PETITIONERS SHALL CIRCULATE THE PETITION FOR SIGNATURES AND ON
21 COMPLETION OF SIGNATURE GATHERING SHALL SUBMIT THEIR PETITIONS TO THE
22 SECRETARY OF THE BOARD OF DIRECTORS. A PETITION IS NOT VALID UNLESS
23 SUBMITTED WITHIN ONE HUNDRED TWENTY DAYS AFTER THE DATE OF THE WRITTEN
24 NOTIFICATION FROM THE BOARD TO THE PROPONENT. ON RECEIPT OF A PETITION THAT
25 APPEARS TO INCLUDE THE REQUISITE NUMBER OF SIGNATURES, THE BOARD SHALL
26 SCHEDULE A SPECIAL MEETING OF THE BOARD WITHIN THIRTY DAYS AFTER RECEIPT OF
27 THE SIGNED PETITIONS, OR IF A REGULAR MEETING OF THE BOARD WILL BE HELD
28 WITHIN THIRTY DAYS AFTER RECEIPT OF THE SIGNED PETITIONS, THE BOARD MAY
29 CONSIDER THE PETITION AT THE NEXT REGULAR MEETING OF THE BOARD.

30 6. AT AN OPEN SESSION OF THE REGULAR OR SPECIAL MEETING OF THE BOARD,
31 THE BOARD SHALL EXAMINE THE PETITION SIGNATURES AND SHALL VALIDATE THOSE
32 SIGNATURES THAT APPEAR TO BE VALID, UNLESS THERE IS SUBSTANTIAL EVIDENCE THAT
33 A SIGNATURE IS NOT THE SIGNATURE OF THE PERSON PURPORTING TO SIGN THE
34 PETITION OR IF THE PERSON IS NOT A MEMBER OF THE ASSOCIATION AS DETERMINED BY
35 OWNERSHIP RECORDS ON THE DATE OF THE MEETING.

36 7. AT THE CONCLUSION OF THE TALLY, THE BOARD SHALL ANNOUNCE THE
37 RESULTS AND IF A SUFFICIENT NUMBER OF SIGNATURES IS VALIDATED, THE PROPOSED
38 MEASURE SHALL BE SUBMITTED FOR A VOTE OF THE MEMBERSHIP AT THE NEXT ANNUAL
39 MEETING OF THE MEMBERS OF THE ASSOCIATION IF THE ANNUAL MEETING MAY BE
40 SCHEDULED AND HELD LAWFULLY NO EARLIER THAN SEVENTY-FIVE DAYS AFTER THE DATE
41 THE SIGNATURES ARE VALIDATED AND NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER
42 THE DATE THE SIGNATURES ARE VALIDATED. IF THE ANNUAL MEETING CANNOT BE
43 SCHEDULED AND HELD LAWFULLY WITHIN THAT TIME LIMIT, THE BOARD SHALL SCHEDULE
44 AND HOLD A SPECIAL MEETING OF THE MEMBERS WITHIN THAT TIME LIMIT TO VOTE ON
45 THE MEASURE UNLESS OTHERWISE AGREED TO BY THE PROPONENT AND THE BOARD. THIS

1 SECTION DOES NOT REQUIRE THE BOARD TO SUBMIT A PETITION TO THE MEMBERS THAT
2 IS IN VIOLATION OF THE LAW OR THAT IS IN CONFLICT WITH A COMMUNITY DOCUMENT
3 WITH HIGHER AUTHORITY.

4 8. AT THE MEMBERSHIP MEETING TO VOTE ON THE INITIATIVE MEASURE, THE
5 BOARD SHALL ENSURE THAT THE MEETING REMAINS OPEN TO THE MEMBERS UNTIL ALL
6 VOTES ARE CAST AND TALLIED AND THE RESULTS ARE ANNOUNCED.

7 33-1818. Amendments to community documents; quorum; limitations

8 A. AFTER THE PERIOD OF DECLARANT CONTROL AND NOTWITHSTANDING ANY
9 PROVISION IN THE COMMUNITY DOCUMENTS, THE MEMBERS OF A PLANNED COMMUNITY MAY
10 AMEND THE COMMUNITY DOCUMENTS BY A VOTE OF AT LEAST TWO-THIRDS OF THOSE
11 VOTING ON THE MEASURE, EXCEPT THAT IF THE COMMUNITY DOCUMENTS PROVIDE FOR A
12 SMALLER PERCENTAGE THAT IS AT LEAST FIFTY PER CENT OF THOSE VOTING, THE
13 SMALLER PERCENTAGE APPLIES. FOR ANY PLANNED COMMUNITY WITH A DECLARATION
14 AMENDMENT REQUIREMENT OF MORE THAN A TWO-THIRDS VOTE, THE PLANNED COMMUNITY
15 BY A VOTE OF THE MEMBERSHIP OR OTHERWISE MAY NOT SUBSEQUENTLY ADOPT A
16 DECLARATION AMENDMENT VOTE REQUIREMENT THAT IS LESS THAN THAT PRESCRIBED BY
17 THIS SUBSECTION.

18 B. FOR ANY MEETING OF THE ASSOCIATION AT WHICH THE MEMBERS ARE VOTING
19 ON A PROPOSED AMENDMENT TO THE COMMUNITY DOCUMENTS, THE FOLLOWING APPLY:

20 1. THE ASSOCIATION SHALL DELIVER TO THE MEMBERS OF THE ASSOCIATION, AT
21 LEAST THIRTY BUT NOT MORE THAN SIXTY DAYS BEFORE THE MEETING, WRITTEN NOTICE
22 OF ANY MEETING CALLED FOR THE PURPOSE OF AMENDING THE COMMUNITY DOCUMENTS AND
23 THE TEXT OF ANY PROPOSED AMENDMENT.

24 2. ANY AMENDMENT TO THE DECLARATION THAT IS ADOPTED BY THE ASSOCIATION
25 IS EFFECTIVE ON RECORDING.

26 3. DOCUMENTS RELATING TO ANY ADOPTED AMENDMENT SHALL BE KEPT WITH THE
27 OTHER BOOKS AND RECORDS OF THE ASSOCIATION FOR AT LEAST ONE YEAR AFTER
28 RECORDING OF THE AMENDMENT.

29 4. UNLESS THE DECLARATION SPECIFIES A SMALLER PERCENTAGE, A QUORUM IS
30 PRESENT FOR PURPOSES OF VOTING ON AMENDMENTS TO THE COMMUNITY DOCUMENTS IF
31 MEMBERS HOLDING AT LEAST THIRTY PER CENT OF THE VOTES IN THE ASSOCIATION ARE
32 PRESENT IN PERSON OR AS OTHERWISE PERMITTED BY LAW.

33 C. IF AT LEAST TWO-THIRDS OF THOSE PERSONS VOTING ON THE AMENDMENT
34 APPROVE THE AMENDMENT, THE PROPOSED PROVISION OF THE COMMUNITY DOCUMENTS IS
35 APPROVED AND SHALL THEREAFTER BE APPLICABLE AS IF ADOPTED BY THE BOARD OF
36 DIRECTORS.

37 D. THIS SECTION DOES NOT APPLY TO THE MODIFICATION OF THE COMMUNITY
38 DOCUMENTS THAT DO ANY OF THE FOLLOWING:

39 1. REQUIRE THE EXCLUSIVE USE OF ONE OR MORE BUILDERS, DEVELOPERS OR
40 CONTRACTORS FOR THE PLANNED COMMUNITY AS IDENTIFIED IN THE COMMUNITY
41 DOCUMENTS.

42 2. REGULATE THE TRANSITION FROM DECLARANT CONTROL OF THE PLANNED
43 COMMUNITY TO NONDECLARANT OWNER CONTROL, INCLUDING ANY TRANSITION RELATED
44 DOCUMENTS OR REQUIREMENTS.

1 3. CHANGE THE USE OF AND ACCESS TO THE COMMON AREAS OF THE PLANNED
2 COMMUNITY AND ANY PROPERTY NOT OWNED BY THE ASSOCIATION FOR THE GUESTS AND
3 INVITEES OF THE DECLARANT, ITS AFFILIATES, SUCCESSORS AND ASSIGNS OR OF THE
4 MEMBERS AS PROVIDED IN THE COMMUNITY DOCUMENTS, INCLUDING USE AND ACCESS FOR
5 BUSINESS OR MARKETING PURPOSES, USE OF AND ACCESS TO EASEMENTS AND COMMON
6 AREAS BY THE DECLARANT, ITS AFFILIATES, SUCCESSORS AND ASSIGNS AND USE OF AND
7 ACCESS TO ANY PROPERTY NOT OWNED BY THE ASSOCIATION.

8 4. CHANGE THE USE OF AND ACCESS TO EASEMENTS OR ANY MAINTENANCE
9 OBLIGATIONS OF THE ASSOCIATION FOR THOSE EASEMENTS.

10 5. CHANGE THE USE, OPERATION, MAINTENANCE, DISPOSITION OF OR
11 REQUIREMENT TO TAKE POSSESSION OF COMMON AREAS IN THE PLANNED COMMUNITY.

12 6. CHANGE THE AMOUNT OR LEVEL OF ASSESSMENTS ON LOTS OWNED BY THE
13 DECLARANT.

14 7. PRESCRIBE A MINIMUM AGE FOR OWNERSHIP OR OCCUPANCY OF THE PLANNED
15 COMMUNITY IN COMPLIANCE WITH FEDERAL AND STATE LAW.

16 8. CHANGE ANY PROCEDURES OR PRACTICES THAT ARE REASONABLY REQUIRED FOR
17 COMPLIANCE WITH FEDERAL, STATE OR LOCAL LAWS OR REGULATORY REQUIREMENTS.

18 9. REQUIRE MEMBERSHIP IN A MASTER ASSOCIATION IN ADDITION TO REQUIRING
19 MEMBERSHIP IN THE PLANNED COMMUNITY ASSOCIATION.

20 10. APPLY NONUNIFORMLY TO SIMILAR LOTS.

21 11. CHANGE THE BASIS FOR ALLOCATING VOTING RIGHTS OR ASSESSMENTS AMONG
22 MEMBERS.

23 12. AMEND THE PLAT OR AMEND THE REQUIREMENTS OF THE PLAT.

24 13. CHANGE ANY CONTRACT, OTHER THAN THE COMMUNITY DOCUMENTS, THAT
25 EXTENDS BEYOND THE PERIOD OF DECLARANT CONTROL UNLESS THE CONTRACT WAS NOT
26 BONA FIDE OR WAS UNCONSCIONABLE TO THE MEMBERS AT THE TIME ENTERED INTO UNDER
27 THE CIRCUMSTANCES THEN PREVAILING.

28 E. THIS SECTION DOES NOT PREVENT OR LIMIT THE BOARD OF DIRECTORS OR THE
29 ASSOCIATION FROM AMENDING THE COMMUNITY DOCUMENTS AS PRESCRIBED IN THE
30 COMMUNITY DOCUMENTS.